

**WETHERSFIELD PLANNING AND ZONING COMMISSION
PUBLIC HEARING AND MEETING**

July 2, 2013

The Wethersfield Planning and Zoning Commission held a public hearing and meeting on Tuesday, July 2, 2013 at 7:00 p.m. in the Wethersfield Town Council Chambers located at Town Hall, 505 Silas Deane Highway, Wethersfield, Connecticut 06109.

1. CALL TO ORDER:

Chairman Harley called the meeting to order at 7:03 p.m.

1.1 ROLL CALL & SEATING OF ALTERNATES (5 members required for a quorum):

Chairman Harley called the roll as follows:

Member Name	Present	Absent	Excused
Thomas Harley, Chairman	✓		
Richard Roberts, Vice Chairman	✓		
Antonio Margiotta, Clerk	✓		
Joseph Hammer			✓
George Oickle	✓		
Anthony Homicki	✓		
James Hughes			✓
Dave Edwards			✓
Angelo Robert Fazzina	✓		
Thomas Dean (alternate)			✓
Alex Vasel (alternate)	✓		
Leigh Standish (alternate)	✓		

Also present: Peter Gillespie, Town Planner/Economic Development Manager;
Denise Bradley, Assistant Planner

Chairman Harley noted at the time of roll call there were six (6) full members and two (2) alternate members in attendance. All members present to participate.

Members of the Public were present.

2. OLD BUSINESS:

There was no Old Business discussed at this meeting.

3. NEW BUSINESS:

3.1 Annual Organizational Meeting of the Planning and Zoning Commission

Motion: Vice Chairman Roberts made a motion to move Agenda Item **3.1 Annual Organizational Meeting of the Planning and Zoning Commission** for hearing after Agenda Items 3.2 through 3.4.

Second: Commissioner Homicki seconded the motion.

Aye: Harley, Roberts, Margiotta, Oickle, Homicki, Fazzina, Vasel, Standish;

Nay: None;

Vote: 8 – 0;

This Application was taken out of order for hearing after Agenda Items 3.2 through 3.4.

3.2 PUBLIC HEARING APPLICATION NO. 1799-13-Z: Nermin Duric Seeking a Special Permit in accordance with Section 3.5.3 of the Wethersfield Zoning Regulations for an accessory apartment at 301 Nott Street.

The Applicant, Nermin Duric, appeared before the Commission and described his Application. He noted an addition to the existing home was constructed in 2006, the only change to the inside of the building would be to convert the existing family room into a kitchen. There would be no modifications made outside of the building.

Chairman Harley inquired and Mr. Duric indicated the rooms located on the second floor of the existing building are bedrooms.

Chairman Harley referred to correspondence dated June 26, 2013 from Peter Gillespie and Denise Bradley to the Planning & Zoning Commission and confirmed with Mr. Gillespie that the proposed accessory apartment is nine hundred, twenty-two (922) square feet or forty-six point one (46.1%) percent of the combined floor areas.

Commissioner Oickle inquired and Mr. Duric indicated there is no outside stairway/entrance to second floor, as the sole entrance to the proposed accessory apartment would be by way of front door entry and interior, open stairway by way of the first floor entrance in the front of the building.

Commissioner Oickle commented favorably regarding the upkeep of the site. He inquired and Mr. Duric indicated there was a one (1) car garage at the site that has been demolished and is in the process of being replaced by a two (2) car garage.

Vice Chairman Roberts agreed with Commissioner Oickle regarding the upkeep of the site. He inquired and Mr. Duric indicated his (Mr. Duric's) sister owns the building. Mr. Duric explained his sister's older son has special needs that may require 24/7 assistance and that dependent upon state approval, the second floor of the building would be utilized by him or others who may need to provide assistance, as the Applicant's sister needs to be home with the older son. Mr. Duric noted there are no handicapped accessibility matters to address in this Application.

Chairman Harley inquired and Mr. Gillespie indicated Town Regulations state the owner of the property shall occupy the principal residential unit or the accessory unit. Mr. Gillespie suggested a condition for an approval should include a sworn, notarized statement from the owner indicating they will comply with the condition for the subject special permit.

PUBLIC COMMENTS:

Frank Tyburski, 28 Robbins Drive, appeared before the Commission and stated his opposition to this Application. He mentioned it provides the mechanism of turning Nott Street into two (2) family homes with residents who are transient. He noted his lot is south and parallel to Nott Street (just a few hundred feet away) and that a considerable amount of time and effort has been spent improving his property. He mentioned that granting applications of this kind promotes the opportunity of an advancement of a multi-family residence environment, as present in Hartford, and moving/promoting that living arrangement toward Wethersfield. He does not promote changing the area into a neighborhood that has more transient than permanent residents. He noted that he could turn the third story of his home into an apartment and that doing so would offend his neighbors.

Vice Chairman Roberts confirmed Mr. Tyburski's residence is on the north side of Robbins Drive and is

adjacent to the backyards of residences on Nott Street.

Semso Esmic, 295 Nott Street, appeared before the Commission and spoke in favor of this Application. His residence is adjacent to the Applicant. He noted the purpose of this Application is to serve someone with special needs, and it will take pressure from the parent who assists that person.

The Applicant indicated he has a letter in support of his Application from Linda Case of 103 Park Avenue, and Mr. Gillespie noted her property abuts the Community Center property.

Vice Chairman Roberts inquired and Mr. Gillespie indicated the time duration for special permits of this kind has varied from site to site and has been determined on a case by case basis.

Clerk Margiotta inquired and Mr. Gillespie indicated the type of permit in this Application would run with the land and not with a particular person. However, these types of permits require that the owner of the property reside in the dwelling (a sworn statement is provided to that effect, as well as monitoring of sworn statement permit to ensure compliance).

Mr. Gillespie indicated forty (40) residents were notified of this hearing, as required by Town Regulations.

Chairman Harley inquired and Mr. Gillespie indicated these types of permit requests have not been handled administratively.

Commissioner Oickle inquired and Mr. Gillespie indicated Ms. Case (who submitted the letter in support of this Application, as hereinabove stated by the Applicant) was within the three hundred (300') foot radius of property owners who were supposed to be notified pursuant to Town Regulations.

Commissioner Standish inquired and Mr. Gillespie indicated that prior to 2004, special permit applications of the Applicant's kind were reviewed by the Zoning Board of Appeals. Since 2004, Mr. Gillespie estimates five (5) special permits of this kind were granted and perhaps no more than one (1) involved a non-family member. Commissioner Standish mentioned the original intent of the regulation was to allow for family members to remain together to care for older family members. The special need communicated by the Applicant may warrant the need. He is concerned that the proposed unit could be used as a rental subsequently in the future.

Vice Chairman Roberts mentioned and Commissioner Oickle concurred there are often times when communities learn of single family residences that have been modified and advertise multi-family living, and therefore, he tends to give the benefit of the doubt to those who provide an Application in this regard and do so legitimately.

Motion: Commissioner Oickle made a motion to close the public hearing of **PUBLIC HEARING APPLICATION NO. 1799-13-Z: Nermin Duric** Seeking a Special Permit in accordance with Section 3.5.3 of the Wethersfield Zoning Regulations for the use of an accessory apartment at 301 Nott Street.

Second: Clerk Margiotta mmissioner Oickle seconded the motion.

Aye: Harley, Roberts, Margiotta, Oickle, Homicki, Fazzina, Vasel, Standish;

Nay: None;

Vote: 8 – 0;

This Application was Closed.

COMMENTS:

Commissioner Homicki indicated it is apparent this Application is not for a two-family residence.

Motion: Clerk Margiotta made a motion to approve **PUBLIC HEARING APPLICATION NO. 1799-13-Z: Nermin Duric** Seeking a Special Permit in accordance with Section 3.5.3 of the Wethersfield Zoning Regulations for the use of an accessory apartment at 301 Nott Street, with the following stipulations:

- 1) The Applicants shall submit a sworn, notarized, Affidavit regarding the issue of owner occupancy (Occupancy Verification Statement), which is to be provided every three (3) years for the duration of the apartment;
- 2) There shall be verification by Staff that the conditions have not changed from what the Applicants originally applied for.

Second: Commissioner Standish seconded the motion.

Aye: Harley, Roberts, Margiotta, Oickle, Homicki, Fazzina, Vasel, Standish;

Nay: None;

Vote: 8 – 0;

This Application was approved, as stipulated.

3.3 APPLICATION NO. 1785-12-Z: TO Design, LLC Seeking a Site Plan Modification to Application No. 1785-12-Z at 411 Wolcott Hill Road (Wethersfield High School)

Christine Fortunato, Chairperson of the School Building Projects Committee, appeared before the Commission with Rusty Malik, Educational Architect, Quisenberry & Arcari Architects, LLC; Mark Fisher of TO Design, LLC, and Wethersfield Board of Education Director of Maintenance and Operations, Fred Bushey, to discuss site modification to the proposed construction work at Wethersfield High School.

Rusty Malik, Educational Architect, Quisenberry & Arcari Architects, LLC, indicated the project has run into budgetary issues due to the HAZMAT abatement of the existing building.

The Committee has voted to eliminate the geothermal well field which was proposed under the new tennis courts and parking area north of the building. As a result, a conventional, high-performance HVAC system will be in place of the geothermal system. Site plan modifications of June 18, 2013 include an area of the northwest corner that would be fenced (20 ft. tall with fixed louver material), screened and landscaped (with 35 Green Giant Arborvitae evergreen plantings outside the fence) that would enclose the new electrical transformer, standby electric generator and a cooling tower. This change results in the loss of six (6) parking spaces that were designated for kitchen and maintenance staff. The parking spaces are now relocated.

The replacement equipment, particularly the cooling tower, has the potential to generate noise during its operation [manufacturers data indicates forty five (45) decibels in the daytime ten (10) decibels below Town Regulations), thirty eight (38) decibels during the nighttime]. Acoustical consultants tested and confirmed the manufacturer's data at the property line north of the cooling tower location. The fence proposed for the work area could help with minimizing noise effects. Decibel level information, pictures of the cooling tower, and site plan documents were provided to the Commission.

Chairman Harley inquired and Mr. Malik indicated the cooling tower is twenty (20') feet tall.

Commissioner Edwards inquired and Mr. Malik stated the adjacent building (tech-ed area) is twenty-two

(22') feet tall. Mr. Malik indicated the acoustical consultant reviewed the noise levels relative to classroom teaching environment at the site, and the decibel ranges meet the stringent State standards. Mr. Malik stated that there is and will be careful selection of the equipment for the site mindful of the stringent State standards.

Vice Chairman Roberts inquired as to what the decibel level is for an individual walking right by the area to which the subject equipment will be located. The only data available is that from the manufacturer which indicates sixty one to sixty five (61-65) decibels from five (5') feet away.

Commissioner Oickle inquired and Mr. Malik indicated any other locations considered at the site would entail the equipment being moved closer to the perimeter of the building, the greater the noise level heard from the equipment. Mechanical considerations such as proximity of cooling tower to the chiller effect placement of the equipment on site.

Commissioner Oickle inquired and Mark Fisher of TO Design, LLC, indicated the variety of Arborvitae selected grows ten (10') feet wide and grow to approximately twenty (20') feet.

Commissioner Standish inquired and Mr. Malik indicated there would be some sound attenuation from the vegetation and the fence will occur from noise emanating at the sides and bottom of the equipment, but not sound emanating from the top of the equipment.

Commissioner Fazzina inquired and Mr. Malik indicated that PCBs were not found in the vicinity of the location designated for the test wells formerly proposed (and eliminated) in the plan. Mr. Malik indicated that if PCBs were found in that area, a remediation would have to occur.

Clerk Margiotta inquired and Mr. Malik mentioned short term cost savings will allow the project to stay on budget. Long term, there will be more money added to costs for utilities. LEED certification has not been jeopardized at this point. There are no rebates to available obtain at this point.

PUBLIC COMMENTS:

Doug Turner, 88 Westway, confirmed the location of the proposed equipment with Mr. Malik as in the northwest corner of the site. Mr. Turner is concerned with noise levels emanating from the equipment and heard at the neighboring residences. He will be moving from his residence in a few weeks but mentioned he was speaking on behalf of many residents who are concerned with noise emanation from the site.

Chairman Harley noted the decibel level measurement is taken at the back yard property line.

Mr. Malik indicated there will be a row of arborvitae planted along the property line on the north side.

Vice Chairman Roberts inquired and Mr. Malik indicated there are existing systems at the school currently making noise such as rooftop equipment (which will be replaced in the renovation with sound attenuating equipment), window units (which emanate noise, but no decibel range has been recorded).

Commissioner Oickle indicated additional decibel levels need to be taken at the site.

Commissioner Homicki inquired and Mrs. Fortunato indicated a budget needs to be finalized so that a

filing can be made on July 16, 2013.

Commissioner Standish suggested close attention be paid to the noise level at Westway and to find a cost effective way for attenuating sound emanating from the proposed equipment.

Mr. Malik indicated more calculations with the additional buffers and variety types in place can be done going forward.

Commissioner Fazzina noted a mechanism is needed to address noise compliance and provide assistance as appropriate.

Commissioner Edwards inquired and Mr. Malik noted the placement of utilities (location of transformer and where the power is coming in) at the site warranted where the proposed equipment would be located.

Commissioner Oickle noted he would be satisfied in moving this Application forward and requested that a report be provided to the Commission regarding additional decibel measurement information, mindful of sound attenuation, post inclusion of the additional measures discussed (i.e. shrubbery, fencing, etc.).

Motion: Commissioner Fazzina made a motion to approve **APPLICATION NO. 1785-12-Z: TO Design, LLC** Seeking a Site Plan Modification to Application No. 1785-12-Z at 411 Wolcott Hill Road (Wethersfield High School), with the following stipulations:

- 1) Benchmark data shall be provided of the existing decibels emanating from the site during daytime and nighttime. Such data shall be utilized as a guide to improve sound emanating from the proposed equipment during both daytime and nighttime post installation;
- 2) Benchmark data described above shall incorporate findings mindful of the street known as Westway.

Second: Commissioner Homicki seconded the motion.

Aye: Harley, Roberts, Margiotta, Oickle, Homicki, Fazzina, Vasel, Standish;

Nay: None;

Vote: 8 – 0;

This Application was approved, as stipulated.

3.4 Request for an Extension to Application No. 1471-05-Z for Folly Brook Commons

Attorney Stanley Falkenstein of Falkenstein, Meggers, Paul & Robinson, P.C., 113 East Center Street, Manchester, CT, representative of New Folly Brook Commons, L.L.C., appeared before the Commission regarding this Application request. He noted his client has succeeded to the interests of Folly Brook Commons, L.L.C. He is requesting an approval for an extension of time until January 17, 2016, to permit the completion of the improvements associated with the project. The project consists of twelve (12) units of multifamily housing located at the corner of Spruce Street and Folly Brook

Boulevard. Eight (8) units have been completed, seven (7) of those have sold, and the eight (8th) unit is being rented and is on the market for sale. Unless the extension is granted, the construction deadline of January 17, 2014 will expire, and the new owner of the site will not be able to build the last building of four (4) units.

Chairman Harley noted the Memorandum dated June 25, 2013 from Peter D. Gillespie, Economic Development Manager/Town Planner to the Planning & Zoning Commission which provides a history of the project referred to in this Application.

Vice Chairman Roberts inquired and Mr. Gillespie mentioned the IWWC permit statutes changed, and IWWC has indicated that the IWWC permit for the property may be extended as far as a PZC extension of the January 17, 2014 construction deadline. Mr. Gillespie noted IWWC would deal with that issue separately.

Vice Chairman Roberts inquired and Mr. Gillespie noted that if the extension was granted and there was a request to build the remaining building, a bond would be expected to be provided by the Applicant for the remaining site improvements as was previously documented.

Commissioner Oickle urged the site/infrastructure work be completed and to incorporate some work completion in an approval of extension of time requested.

Mr. Gillespie inquired and Attorney Falkenstein does not know if his client has the intention to put the final pavement course down, as well as complete striping and some of the intermediate improvements that might address site condition issues.

Clerk Margiotta inquired and Attorney Falkenstein indicated there is a homeowners association for this complex.

Motion: Commissioner Oickle made a motion to approve the Request for an Extension to Application No. 1471-05-Z for Folly Brook Commons (n/k/a New Folly Brook Commons, L.L.C.) until January 17, 2016, with the following stipulations:

- 1) Final pavement of existing development shall be completed;
- 2) A surety bond must be placed to assure completion of required site improvements.

Second: Commissioner Homicki seconded the motion.

Aye: Harley, Roberts, Margiotta, Oickle, Homicki, Fazzina, Vasel, Standish;

Nay: None;

Vote: 8 – 0;

Request for extension of deadline Approved as stipulated.

3.1 Annual Organizational Meeting of the Planning and Zoning Commission

Election of 2013-2014 Officers:

Chairman Harley made a motion to nominate and elect Richard Roberts as Commission Chairman for 2013-2014. Commissioner Oickle seconded, and the vote showed all in favor.

Commissioner Oickle made a motion to nominate and elect Thomas Harley as Commission Vice Chairman for 2013-2014. Commissioner Margiotta seconded, and the vote showed all in favor.

Chairman Harley made a motion to nominate and elect Antonio Margiotta as Commission Clerk for 2013-2014. Commissioner Standish seconded, and the vote showed all in favor.

Authorization of Commission Signatures for 2013-2014:

Commissioner Oickle made a motion to authorize Peter D. Gillespie to sign notices of the Commission for 2013-2014. Vice Chairman Roberts seconded, and the vote showed all in favor.

Commissioner Oickle made a motion to authorize Michael J. Turner to sign notices of the Commission for 2013-2014. Vice Chairman Roberts seconded, and the vote showed all in favor.

Ex-Officio Members for 2013-2014:

Commissioner Oickle made a motion for Jeff Bridges, Town Manager, as Ex-Officio Member of the Commission for 2013-2014. Commissioner Homicki seconded, and the vote showed all in favor.

Appointment to Capitol Region Council of Governments for 2013-2014:

Chairman Harley made a motion for Angelo Robert Fazzina as representative and Antonio Margiotta as alternate to the Regional Planning Commission of CROG for 2013-2014. Commissioner Oickle seconded, and the vote showed all in favor.

Appointment to Economic Development and Improvement Commission for 2013-2014:

Commissioner Fazzina made a motion to nominate and elect Leigh Standish as liaison to the Economic Development and Improvement Commission. Commissioner Homicki seconded, and the vote showed all in favor.

Review of Commission Rules and Procedures:

Vice Chairman Roberts made a motion to re-adopt Commission Rules and Procedures. Commissioner Oickle seconded, and the vote showed all in favor.

The voting for the **Annual Organizational Meeting of the Planning and Zoning Commission** occurred as follows:

Aye: Harley, Roberts, Margiotta, Oickle, Homicki, Fazzina, Vasel, Standish;

Nay: None;

Vote: 8 – 0;

4. OTHER BUSINESS:

There were no matters of Other Business discussed during this meeting.

5. MINUTES – June 4, 2013 Planning & Zoning Commission Meeting Minutes:

Motion: Commissioner Oickle made a motion to approve the Minutes from the June 4, 2013, Planning & Zoning Commission Meeting, as submitted.

Second: Commissioner Fazzina seconded the motion.

Aye: Harley, Oickle, Fazzina, Vasel, Standish;

Nay: None;

Vote: 5 – 0;

Vice Chairman Robert, Clerk Margiotta, and Commissioner Homicki did not participate in the vote.

Minutes of the June 4, 2013 Meeting of the Planning & Zoning Commission were approved, as submitted.

6. STAFF REPORTS:

Mr. Gillespie indicated a certified mailing was received by the Town of Rocky Hill concerning a variance pertaining to a liquor permit at a property located at 38 Town Line Road (as the site is in within 500 feet of the Wethersfield Town Line, thus invoking legal notice to us). Mr. Gillespie mentioned a Marsh Street resident has sent an e-mail complaining of excessive noise of music at Lucky Lou's, and Mr. Gillespie will update the Commission as information is learned. Mr. Gillespie mentioned a presentation and discussion regarding the draft plans for the Masonic and Comstock Ferre buildings will be held on Wednesday, July 10, 2013, 7:00 p.m. in Town Council Chambers. The Commissioners and Mr. Gillespie noted the PZC meeting scheduled for August 6, 2013 will not occur.

Chairman Harley congratulated Commissioner Dean on completion of the Parliamentary Procedures training.

7. PUBLIC COMMENTS ON GENERAL MATTERS OF PLANNING AND ZONING.

There were no public comments made at this meeting regarding general matters of planning and zoning.

8. CORRESPONDENCE:

8.1 A letter dated June 14, 2013 from Don Hong requesting the abandonment of a home occupation at 404 Wolcott Hill Road. Mr. Gillespie indicated a filing on the land records may be appropriate.

9. PENDING APPLICATIONS TO BE HEARD AT FUTURE MEETINGS:

PUBLIC HEARING APPLICATION NO. 1798-13-Z: Gary Catania Seeking a Special Permit in accordance with Section 3.5.2 of the Wethersfield Zoning Regulations for the continued use of a home occupation at 44 Victory Lane. (Renewal and modifications to conditions)

PUBLIC HEARING APPLICATION NO. 1801-13-Z: Sebastiana D'Amato Seeking a Special Permit in accordance with Section 5.6 (Exceptions for Business Redevelopment) of the Wethersfield Zoning Regulations for a change of use from office to personal service to operate a salon and associated site improvements at 376 Silas Deane Highway, east side.

10. ADJOURNMENT:

Motion: Commissioner Standish motioned to adjourn the meeting at 8:58 p.m.

Second: Commissioner Oickle seconded the motion.

Aye: Harley, Roberts, Margiotta, Oickle, Homicki, Fazzina, Vasel, Standish;

Nay: None;

Vote: 8 – 0;

Meeting adjourned.

Respectfully submitted,
Ellen Goslicki, Recording Secretary